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**VIA ECF**

The Honorable Philip M. Halpern  
United States District Judge for the  
Southern District of New York  
300 Quarropas Street, Room 530  
White Plains, New York 10601

In light of Defendants' written consent to the amendment, Plaintiff shall file its third amended complaint by April 2, 2024. Defendants' answer or pre-motion letter shall be filed by April 12, 2024. With respect to other matters raised in this joint letter, the Court reminds the parties that it does not give legal or procedural advice.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Philip M. Halpern'.

Philip M. Halpern  
United States District Judge

Dated: White Plains, New York  
March 20, 2024

**Re: Evercare Choice, Inc. v. PKF O'Connor Davies LLP et al.,  
7:20-cv-02733-PMH**

Dear Honorable Judge Halpern,

Counsel for Plaintiff EverCare Choice, Inc. ("EverCare") and counsel for Defendants PKF O'Connor Davies, LLP; O'Connor Davies, LLP; O'Connor Davies Munns & Dobbins, LLP; Thomas P. Kennedy; Michael J. Suarez; Christopher J. McCarthy; Dorothea Russo; and Garrett M. Higgins (collectively, "Defendants," and together with Plaintiff, the "Parties") respectfully submit this joint letter pursuant to the Court's Order dated March, 12, 2024, directing the Parties to provide a status update concerning the above-referenced action (the "Action").

On March 4, 2024, Defendants served EverCare with a letter pursuant to Your Honor's Rule 4(C)(ii).<sup>1</sup> Nonetheless, before and after Defendants' letter, the Parties have been discussing the following topics: (1) confirming the arbitration award, dated November 20, 2023 (the "Arbitration Order") (Dkt. No. 34), rendered in an arbitration before Judge Shira Scheindlin in the American Arbitration Association ("AAA"); (2) amending the Second Amended Complaint; and (3) pre-answer motions and letters under Your Honor's Rule 2(C) and 4(C).

*First*, EverCare wishes to confirm the Arbitration Order. EverCare respectfully submits that an order from this Court under 9 U.S.C. (the "Federal Arbitration Act" or "FAA") § 9 confirming the Arbitration Order and entry of a judgment thereon under the FAA § 13 is appropriate. Defendants have found no basis under FAA § 9 or otherwise to confirm an arbitrator's order granting a motion to remand an arbitration back to a District Court, so

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<sup>1</sup> On March 7, 2024, the Parties agreed to adjourn (1) EverCare's time to respond to Defendants' 4(C)(ii) letter; and (2) Defendants' time to move, answer or otherwise respond to the Second Amended Complaint as the Parties were actively discussing the issues raised in this letter.

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Defendants object to confirmation of the order. The Parties request the Court's guidance on how to proceed on this issue.

*Second*, EverCare intends to amend its Second Amended Complaint (the "SAC") to conform the pleading to the Statement of Claims EverCare filed with the AAA and include additional related information uncovered in discovery in the arbitration. Defendants do not object to EverCare amending its SAC (the "Third Amended Complaint" or "TAC") and are amenable to EverCare filing the TAC on or before April 2, 2024. Given the length of the pleadings filed thus far EverCare has agreed to provide Defendants with a redlined version of the TAC in order to track those modifications taken from the Statement of Claim filed with the AAA. The Parties, therefore, respectfully request an order directing and permitting EverCare to file the TAC by April 2, 2024.

*Third*, under Your Honor's Rule 4(C)(iii) Defendants intend to file a pre-motion to dismiss conference letter within 10 days of EverCare filing of its TAC, to which EverCare shall respond within 5 business days thereafter in accordance with Your Honor's Rule 2(C). The Parties believe this is most efficient because the TAC does not materially change EverCare's claims or factual support underlying the SAC and the parties have met and conferred on the topics raised in Defendants' March 4, 2024, pre-motion letter.

The Parties respectfully request that the Court "So Order" this joint letter. The Parties appreciate the Court's time and attention to this matter and are available at the Court's convenience to discuss EverCare's first request or any other matter related to this letter.

Respectfully,

Dated: New York, New York

March 19, 2024

**WILSON ELSER MOSKOWITZ  
EDELMAN & DICKER LLP**

**MORITT HOCK HAMROFF LLP**

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**SO ORDERED:**

By: \_\_\_\_\_  
Hon. Philip M. Halpern,  
United States District Judge for the  
Southern District of New York